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**UNITED STATES DISTRICT COURT**

**WESTERN DISTRICT OF LOUISIANA**

**LAFAYETTE-OPELOUSAS DIVISION**

**UNITED STATES OF AMERICA**

**CRIMINAL NO. 05-cr-60047**

**VERSUS**

**JUDGE DOHERTY**

**MICKEY M. PATT**

**MAGISTRATE JUDGE  
METHVIN**

**RULING ON PETITIONER'S MOTION FOR TRANSCRIPTS**

***(Rec. Doc. 153)***

Before the court is petitioner Mickey Patt's Second Motion for Transcripts which was referred by Judge Doherty to the undersigned magistrate judge for consideration. For the following reasons, the motion is denied with the right to re-urge **on or before February 11, 2010.**

On January 9, 2009, the United States Court of Appeals for the Fifth Circuit affirmed the judgment against petitioner sentencing him to 115 months imprisonment for the possession of a firearm by a convicted felon. On August 20, 2009, petitioner filed his first request for transcripts of his suppression hearing, trial, and sentencing. The court denied that motion because no appeal was pending and petitioner had not filed a petition under Title 28 USC § 2255 (Rec. Doc. 152).<sup>1</sup>

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<sup>1</sup> Title 28 U.S.C.A. § 753 provides that in pertinent part that the:

The motion was denied without prejudice to petitioner's right to re-urge should he file a petition pursuant to § 2255. The court ordered, however, that if the motion was re-urged, petitioner was to, "set forth the basis for his motion, including a showing that the grounds for the relief requested are not frivolous but present a substantial question."

Petitioner has now filed a motion to vacate under § 2255 (Rec. Doc. 155).<sup>2</sup> However, his request for transcripts is again conclusory and does not comply with the court's order. He makes no showing that his petition presents a substantial question and that the transcripts requested are necessary for the issues presented to be decided but states only that he "can not adequately prepare or conduct any motions properly without this information."<sup>3</sup> Accordingly,

**IT IS HEREBY ORDERED** that petitioner may re-urge his motion **on or before February 11, 2010. In the motion, petitioner shall (1) set forth the basis for his motion, including a showing that the grounds for the relief requested are not frivolous but present a substantial question; and (2) explain**

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Fees for transcripts furnished in proceedings brought under section 2255 of this title to persons permitted to sue or appeal *in forma pauperis* shall be paid by the United States out of money appropriated for that purpose if the trial judge or a circuit judge certifies that the suit or appeal is not frivolous and that the transcript is needed to decide the issue presented by the suit or appeal.

<sup>2</sup> Petitioner was granted *in forma pauperis* status on December 7, 2009 (Rec. Doc. 158).

<sup>3</sup> (Rec. Doc. 153).

**why the transcripts requested are necessary in order for the petition to be decided.**

Signed at Lafayette, Louisiana on January, 14, 2010.

A handwritten signature in black ink, appearing to read 'P. J. Hanna', written over a horizontal line.

PATRICK J. HANNA  
UNITED STATES MAGISTRATE JUDGE